THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.26432 OF 2005

Dt.12.12.2005

Between:

Panthangi Vengaiah … Petitioner

And

The Superintendent of Prohibition and Excise,

Kavali, Nellore District and another. … Respondents

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Prohibition and Excise on behalf of the respondents.

The petitioner questions the impugned order dated 9.11.2005 issued by the Superintendent of Prohibition and Excise, Kavali, Nellore District, the first respondent herein in cancelling the TFT licence No.346/02-03 dated 28.2.2005 of the petitioner without giving any notice and in contravention of Section 31 of A.P.Excise Act, 1968.

Though an appeal lies against the said order, I am of the opinion that the order of the first respondent itself is illegal on the face of it as admittedly no notice has been issued to the petitioner proposing to cancel his TFT licence No.246/02-03 dated 28.2.2005 in respect of

counter No.3 toddy shop at Kondapuram valid up to 31.3.2007 for retail sale of toddy at the house of Simili Ragaiah within the specified boundaries. 30 trees have also been allotted. It is stated that the petitioner filed the necessary evidence showing his nativity and place of residence in respect of the said village. In fact, the Mandal Revenue Officer, Kondapuram also issued nativity certificate on 11.11.2004 stating that the petitioner is native of Gudavalluru village which is a hamlet of Kondapuram village. The petitioner belongs to toddy tapping community and the concerned M.R.O also issued Caste Certificate after making necessary enquiry.

The learned Government Pleader for Excise fairly submits that the impugned order has been passed without issuing any notice and the same is against the principles of natural justice and the impugned order may be set aside directing the respondents to issue show cause notice and take appropriate action.

Having regard to the facts and circumstances of the case, as the impugned order dated 9.11.2005 has been passed straightaway without issuing any notice, the same is set aside keeping it open to the first respondent to issue a show cause notice and take appropriate action in accordance with law after giving reasonable opportunity to the petitioner.

The writ petition is disposed of accordingly. No costs.

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(V.ESWARAIAH, J.)

12.12.2005

Note: Issue copy within three days

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